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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-881, C-580-882]

Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, Steel Dynamics, Inc. and California Steel Industries (collectively, the domestic producers), the Department of Commerce (Commerce) is initiating a country-wide anti-circumvention inquiries to determine whether imports of certain cold-rolled steel flat products (CRS), which are completed in the Socialist Republic of Vietnam (Vietnam) from hot-rolled steel (HRS) produced in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from Korea.

DATES: Applicable **[INSERT THE DATE OF THE PUBLICATION OF THE *FEDERAL REGISTER*]**.

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SUPPLEMENTARY INFORMATION:

Background

On July 28, 2015, AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and the United States Steel Corporation (the domestic producers) filed petitions seeking the imposition of antidumping and countervailing duties on imports of CRS from Brazil, the People's Republic of China, India, Japan, Korea, the Netherlands, Russia, and the United Kingdom.¹ In response to these petitions, Commerce initiated AD and CVD investigations on August 24, 2015.² Following Commerce's final affirmative determinations of dumping and countervailable subsidies,³ and the U.S. International Trade Commission (ITC)'s finding of material injury,⁴ Commerce issued AD and CVD orders on imports of CRS from Korea (collectively, *Orders*).⁵

On June 12, 2018, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(h), the domestic producers submitted a request for Commerce to initiate anti-circumvention inquiries to determine whether entities in Vietnam are circumventing the *Orders* by exporting, to the United States, CRS which is completed or assembled in Vietnam

¹ See Petitioners' Letter, "Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom," dated July 28, 2015.

² See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Initiation of Countervailing Duty Investigations*, 80 FR 51206 (August 24, 2015); and *Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Netherlands, the Russian Federation, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 51198 (August 24, 2015).

³ See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 81 FR 49953 (July 29, 2016); and *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 49943 (July 29, 2016).

⁴ See *Cold-Rolled Steel Flat Products from Brazil, India, Korea, Russia, and the United Kingdom; Determinations*, 81 FR 63806 (September 16, 2016).

⁵ See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*AD Order*); see also *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*CVD Order*) (collectively *Orders*).

using HRS sourced from Korea.⁶ Further, pursuant to 19 CFR 351.225(f), the domestic producers request that Commerce initiate anti-circumvention inquiries and issue in conjunction with initiation of the inquiries a preliminary determination of circumvention of the *Orders* to suspend liquidation of imports of CRS from Vietnam.⁷

⁶ See the Domestic Producers' Letter, "Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated June 12, 2018 (Anti-Circumvention Ruling Request).

⁷ *Id.*, at 25.

Scope of the Orders

The products covered by the orders are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of the orders are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2

percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). If steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper,

niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of the orders unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of the orders:

- Ball bearing steels;⁸
- Tool steels;⁹
- Silico-manganese steel;¹⁰
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S.

⁸ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

⁹ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

¹⁰ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland*.¹¹

• Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.¹²

The products subject to the orders are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050.

The products subject to the orders may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018,

¹¹ *Grain-Oriented Electrical Steel from Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 FR 42501, 42503 (July 22, 2014). This determination defines grain-oriented electrical steel as “a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.”

¹² *Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 FR 71741, 71741-42 (December 3, 2014). The orders define NOES as “cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ‘substantially equal’ means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B₈₀₀ value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.”

7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the orders is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover imports of CRS exported from Vietnam manufactured from HRS produced in Korea.

Initiation of Anti-Circumvention Inquiries

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting an anti-circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that

action is appropriate to prevent evasion of such order or finding. As discussed below, the domestic producers provided evidence with respect to these criteria.

A. Merchandise of the Same Class or Kind

The domestic producers claim that CRS exported to the United States is the same class or kind as that covered by the *Orders* in these inquiries.¹³ The domestic producers provided evidence to show that the merchandise from Vietnam enters the United States under the same tariff classification as subject merchandise.¹⁴

B. Completion of Merchandise in a Foreign Country

The domestic producers note that section 781(b)(1)(B)(ii) of the Act requires that Commerce “must determine whether, prior to importation into the United States, the merchandise in the third country is completed from merchandise produced in the country subject to the antidumping or countervailing duty order.”¹⁵ The domestic producers presented evidence showing substantial imports of Korean HRS into Vietnam following Commerce’s August 2015 initiation of AD and CVD investigations concerning CRS from Korea.¹⁶ Additionally, the domestic producers provide evidence that, from 2015 through 2017, little to no capacity existed in Vietnam to produce HRS, and that HRS production in Vietnam did not begin until 2017.¹⁷ Nevertheless, the domestic producers maintain that despite Vietnamese imports of HRS being significant even before the initiation of AD and CVD investigations on CRS from Korea in mid-2015, imports increased by 26 percent between 2014 and 2016, before dropping only slightly in 2017.¹⁸ The domestic producers also provide information reflecting the fact that imports into the

¹³ See Anti-Circumvention Ruling Request at 7. See also sections 781(b)(1)(A)(i) and (iii) of the Act.

¹⁴ See Anti-Circumvention Ruling Request at Exhibit 1.

¹⁵ *Id.* at 7. See also section 781(b)(1)(B)(ii) of the Act.

¹⁶ *Id.* at 7-8 and Exhibit 3

¹⁷ *Id.* at 8, Exhibit 4, and Exhibit 5.

¹⁸ *Id.* at 8 and Exhibit 3.

United States of CRS from Korea significantly decreased after the imposition of the *Orders*, and that imports into the United States of CRS from Vietnam, as well as imports into Vietnam of Korean HRS, also increased significantly.¹⁹

C. Minor or Insignificant Process

The domestic producers maintain that the process for completing CRS from HRS is minor or insignificant. Under section 781(b)(2) of the Act, Commerce considers five factors to determine whether the process of assembly or completion in the foreign country in which the merchandise is completed or assembled is minor or insignificant: (A) the level of investment in the foreign country in which the merchandise is completed or assembled; (B) the level of research and development in the foreign country in which the merchandise is completed or assemble; (C) the nature of the production process in the foreign country in which the merchandise is completed or assembled; (D) the extent of production facilities in the foreign country in which the merchandise is completed or assembled, and (E) whether the value of the processing performed in the foreign country in which the merchandise is completed or assembled represents a small proportion of the value of the merchandise imported into the United States.

(1) Level of Investment

The domestic producers contend that the level of investment necessary to construct a factory that can produce CRS from HRS in Vietnam is insignificant. In support of its contention, the domestic producers compare the investment necessary to install a cold-rolling facility with the investment necessary to produce HRS using a fully-integrated production process.²⁰ The domestic producers cite Commerce's findings in the earlier anti-circumvention ruling regarding

¹⁹ *Id.* at 5-6, 8-9, and Exhibit 1.

²⁰ *Id.* at 10-11.

Vietnamese CRS using Chinese HRS inputs (*i.e.*, substrate).²¹ There, Commerce pointed to record evidence showing the cost to build an integrated steel mill in China to produce HRS was in the range of 250 million to 10 billion U.S. dollars (USD) and that the cost to build a cold-rolling mill in Vietnam to produce CRS from HRS substrate was as low as 28 million USD.²² The domestic producers also provide evidence that the cost to build one integrated steel mill in Korea was 5 billion USD, and that the cost of building an integrated steel mill in Vietnam to one Vietnamese firm, Formosa Ha Tinh, was 10.6 billion USD.²³ Finally, the domestic producers provided evidence that the cost of building a coated steel sheet factory, including a cold-rolling mill, was only 70 million USD.²⁴ The domestic producers, therefore, conclude that in comparison to the investment necessary for an integrated steel mill in Korea, the cost of a cold-rolling mill in Vietnam is insignificant.²⁵

(2) Level of Research and Development

The domestic producers assert that the level of research and development (R&D) in Vietnam is either minimal or non-existent.²⁶ The domestic producers cite to Commerce's findings in *CRS China Circumvention Final*, where Commerce found that no R&D investments had been made by mandatory respondents POSCO Vietnam and VNSteel Phu My Flat Steel Limited.²⁷ The domestic producers contend that rather than developing its own technology, CRS

²¹ *Id.*

²² *Id.* (citing *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Preliminary Determination of Anti Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 82 FR 58178 (December 11, 2017) (*CRS China Circumvention Preliminary*) and accompanying Preliminary Decision Memorandum at 16-17; and *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*), and the accompanying Issues and Decision Memorandum at 32).

²³ See Anti-Circumvention Ruling Request at 11-12.

²⁴ *Id.* at 12.

²⁵ *Id.*

²⁶ *Id.* at 12-14.

²⁷ *Id.* at 12-13 (citing *CRS China Circumvention Final* and the accompanying Issues and Decision Memorandum at 37-38).

producers in Vietnam are using technology developed abroad.²⁸ As an example of Vietnamese producers using technology developed abroad, the domestic producers provided evidence that Dong A, a Vietnamese steel company, uses European and Japanese equipment in its coated sheet facility (which includes a pickling and cold-rolling mill).²⁹ In contrast, the domestic producers point to POSCO's R&D activities in Korea, which included employing an R&D laboratory staff of 934 personnel as of December 31, 2017, as well as total R&D expenses of hundreds of billions of Korean Won from 2015 through 2017.³⁰

(3) Nature of Production Process

According to the domestic producers, the production process undertaken by Vietnamese producers of CRS is less complex than steelmaking, and it is minimal in nature.³¹ Citing the ITC report in the underlying investigation of CRS from Korea, the domestic producers describe the process to produce HRS as consisting of three distinct stages (melting and refining steel, casting molten steel into semi-finished forms, and hot-rolling the semi-finished forms into HRS).³² In contrast, the domestic producers provide information indicating that the production of CRS from HRS involves less processing (cleaning and pickling, rolling, annealing, and tempering).³³ Further, the domestic producers cite Commerce's findings in *CRS China Circumvention Final*,

²⁸ *Id.* at 13.

²⁹ *Id.*

³⁰ *Id.* at 13-14.

³¹ *Id.* at 14-18.

³² *Id.* at 15-18 (citing *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and The United Kingdom*, Inv. Nos. 701-TA-545-547 and 731-TA-1291-1297, USITC Publication 4570 (Oct. 2015) (Preliminary) at I-18 to I-22).

³³ See *id.* at 17 (citing *Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, Korea, Netherlands, Russia and the United Kingdom*, Inv. Nos. 701-TA-540-544 and 731-TA-1283-1290, USITC Publication 4564 (Sept. 2015) (Preliminary) at 1-21).

where Commerce found the production process to produce CRS from HRS inputs in Vietnam to be comparatively minor.³⁴

(4) Extent of Production Facilities in Vietnam

The domestic producers provide information indicating that production facilities in Vietnam are more limited compared to facilities in Korea.³⁵ They maintain that Vietnam had little to no HRS capacity during the relevant period. The domestic producers also point to *CRS China Circumvention Final*, where Commerce found that “the vast majority of production activities necessary to produce CRS occur at the molten steel, semi-finished steel, and hot-rolling stages.”³⁶ The domestic producers conclude that the extent of production facilities in Vietnam required to convert Korean HRS to CRS are no greater than those facilities required to convert Chinese HRS to CRS.³⁷

(5) Value of Processing in Vietnam

The domestic producers assert that producing HRS in Korea accounts for a large percentage of the total value of CRS that is produced in Vietnam using HRS from Korea. As support, the domestic producers again point to *CRS China Circumvention Final*, where Commerce found that CRS producers did not incur significant additional costs in the production of CRS, beyond the cost of HRS substrate inputs, that the value of further processing in Vietnam comprised only a small proportion of the total export value, and that the value of HRS produced in China constituted a significant portion of the value of the CRS exported to the United States.³⁸

³⁴ See *id.* at 14-15 (citing *CRS China Circumvention Final* and the accompanying Issues and Decision Memorandum at 39).

³⁵ *Id.* at 18-19 (citing *CRS China Circumvention Final* and the accompanying Issues and Decision Memorandum at 39).

³⁶ *Id.* at 18-19 (citing *CRS China Circumvention Final* and the accompanying Issues and Decision Memorandum at 39).

³⁷ *Id.* at 19.

³⁸ *Id.* at 19-20 (citing *CRS China Circumvention Final* and the accompanying Issues and Decision Memorandum at 10, 21, and 21).

Additionally, the domestic producers cite the recent ITC investigation of CRS from China and Japan, stating that the information contained therein demonstrates that the cost of Korean HRS inputs account for “roughly 81 to 89 percent” of the value of CRS.³⁹ Finally, citing a 2017 *Financial Times* article, the domestic producers further argue that the cost of producing HRS in Korea is higher than the cost of producing HRS in China.⁴⁰

D. Additional Factors to Consider in Determining Whether Action Is Necessary

Section 781(b)(3) of the Act directs Commerce to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the order, such as: “(A) the pattern of trade, including sourcing patterns, (B) whether the manufacturer or exporter of the merchandise ... is affiliated with the person who uses the merchandise... to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and (C) whether imports into the foreign country of the merchandise ... have increased after the initiation of the investigation which resulted in the issuance of such order or finding.”

Regarding patterns of trade, the domestic producers contend that exports of CRS from Vietnam to the United States skyrocketed as exports from Korea declined in the period after the initiation of the underlying investigation, as compared to the period before it.⁴¹ The domestic producers further explain that while recent exports of CRS from Vietnam to the United States have declined slightly, this decline is largely due to Commerce’s investigation of circumvention of the AD and CVD orders on CRS from the China.⁴² The domestic producers also point to the fact that exports of HRS from Korea to Vietnam also increased after the original investigations

³⁹ *Id.* at 21 (citing *Cold-Rolled Steel Flat Products from China and Japan*, Inv. Nos. 701-TA-541 and 731-TA-1284 and 1286, USITC Publication 4619 (July 2016) (Final) at VII-30 (Table VII-41)).

⁴⁰ *Id.* at 20-21 and exhibit 13.

⁴¹ *Id.* at 22.

⁴² *Id.*

commenced.⁴³ Finally, regarding affiliation, the domestic producers point out that major Vietnamese CRS producer POSCO Vietnam is wholly owned by Korea's largest steel manufacturer, POSCO.⁴⁴

Analysis of the Allegations

Based on our analysis of the domestic producer's anti-circumvention allegations and the information provided therein, Commerce determines that anti-circumvention inquiries of the AD and CVD orders on CRS from Korea are warranted.

With regard to whether the merchandise from Vietnam is of the same class or kind as the merchandise produced in Korea, the domestic producers presented information to Commerce indicating that, pursuant to section 781(b)(1)(A) of the Act, the merchandise being produced in and/or exported from Vietnam is of the same class or kind as CRS produced in Korea, which is subject to the *Orders*.⁴⁵ Consequently, Commerce finds that the domestic producers provided sufficient information in their requests regarding the class or kind of merchandise to support the initiation of these anti-circumvention inquiries.

With regard to completion or assembly of merchandise in a foreign country, pursuant to section 781(b)(1)(B) of the Act, the domestic producers also presented information to Commerce indicating that the CRS exported from Vietnam to the United States is produced in Vietnam using HRS from Korea.⁴⁶ We find that the information presented by the domestic producers regarding this criterion supports its request to initiate these anti-circumvention inquiries.

Commerce finds that the domestic producers sufficiently addressed the factors described in sections 781(b)(1)(C) and 781(b)(2) of the Act regarding whether the process of assembly or

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 7 and Attachment 1.

⁴⁶ *Id.* at 5-9, Exhibit 3, Exhibit 4, and Exhibit 5.

completion of CRS in Vietnam is minor or insignificant. In particular, information in the domestic producers' submission indicates that: (1) The level of investment in cold-rolling facilities is minimal when compared with the level of investment for basic steel making facilities;⁴⁷ (2) there is little or no research and development taking place in Vietnam;⁴⁸ (3) the CRS production processes involve the simple processing of HRS from a country subject to the *Orders*;⁴⁹ (4) the CRS production facilities in Vietnam are more limited compared to facilities in Korea;⁵⁰ and (5) the value of the processing performed in Vietnam is a small proportion of the value of the CRS imported into the United States.⁵¹

With respect to the value of the merchandise produced in Korea, pursuant to section 781(b)(1)(D) of the Act, the domestic producers relied on published sources, Commerce's prior conclusions in *CRS China Circumvention Final*, and information presented in the "minor or insignificant process" portion of its anti-circumvention allegation to indicate that the value of the key material, HRS, produced in Korea is significant relative to the total value of the CRS exported to the United States.⁵² We find that this information adequately meets the requirements of this factor, as discussed above, for the purposes of initiating these anti-circumvention inquiries.

Finally, with respect to the additional factors listed under section 781(b)(3) of the Act, we find that the domestic producers presented evidence indicating that shipments of CRS from Vietnam to the United States increased since the imposition of the *Orders*⁵³ and that shipments

⁴⁷ *Id.* at 10-12.

⁴⁸ *Id.* at 12-13.

⁴⁹ *Id.* at 14-18.

⁵⁰ *Id.* at 18-19.

⁵¹ *Id.* at 19-21.

⁵² *Id.* at 14-18.

⁵³ *Id.* at 5.

of HRS from Korea to Vietnam also increased since the *Orders* took effect.⁵⁴ Furthermore, we find that the domestic producers have presented evidence that the largest Korean manufacturer of CRS (POSCO) is affiliated with a company in Vietnam that completes the merchandise.⁵⁵ Accordingly, we are initiating formal anti-circumvention inquiries concerning the AD and CVD orders on CRS from Korea, pursuant to section 781(b) of the Act.

As these inquiries are initiated on a country-wide basis (*i.e.*, not exclusive to the producers mentioned immediately above), Commerce intends to issue questionnaires to solicit information from the Vietnamese producers and exporters concerning their shipments of CRS to the United States and the origin of the imported HRS being processed into CRS. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

While we believe sufficient factual information has been submitted by the domestic producers supporting their request for inquiries, we do not find that the record supports the simultaneous issuance of a preliminary ruling. Such inquiries are by their nature typically complicated and can require information regarding production in both the country subject to the order and the third country completing the product. As noted above, Commerce intends to request additional information regarding the statutory criteria to determine whether shipments of CRS from Vietnam are circumventing the AD and CVD orders on CRS from Korea. Thus, with further development of the record required before a preliminary ruling can be issued, Commerce does not find it appropriate to issue a preliminary ruling at this time.

Notification to Interested Parties

⁵⁴ *Id.* at 6.

⁵⁵ *Id.* at 6 and Exhibit 2.

In accordance with 19 CFR 351.225(e), Commerce finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, Commerce will notify by mail all parties on Commerce's scope service list of the initiation of these anti-circumvention inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(e), we have included a description of the product that is the subject of these anti-circumvention inquiries (*i.e.*, CRS that contains the characteristics as provided in the scope of the *Orders*) and an explanation of the reasons for Commerce's decision to initiate an anti-circumvention inquiry, as provided above.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry. Commerce will establish a schedule for questionnaires and comments on the issues. In accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5), Commerce intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with 19 CFR 351.225(f).

Dated: July 27, 2018.

Gary Taverman,

Deputy Assistant Secretary

*for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

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